

House Bill 1085

By: Representative O'Neal of the 146th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 48 of the Official Code of Georgia Annotated, relating to
2 general provisions regarding revenue and taxation, so as to change certain provisions
3 regarding definitions; to provide an effective date; to repeal conflicting laws; and for other
4 purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Chapter 1 of Title 48 of the Official Code of Georgia Annotated, relating to general
8 provisions regarding revenue and taxation, is amended by revising Code Section 48-1-2,
9 relating to definitions, to read as follows:

10 "48-1-2.

11 As used in this title, the term:

12 (1) 'Agency' means any department, commission, institution, office, or officer of this
13 state.

14 (2) 'Aircraft' means any contrivance used or designed for navigation or flight through the
15 air.

16 (3) 'Airline company' means any person who undertakes, directly or indirectly, to engage
17 in the scheduled transportation by aircraft of persons or property for hire in intrastate,
18 interstate, or international transportation.

19 (4) 'Commissioner' means the state revenue commissioner.

20 (5) 'Contraband article' means:

21 (A) Any unauthorized, false, forged, altered, or counterfeit revenue stamp or marking,
22 prima facie evidencing the payment of any tax imposed by the revenue laws of this
23 state;

24 (B) Any article, plate, die, stamp, machine, apparatus, paraphernalia, or other device
25 or material designed for use, intended to be used, or used in the making of any

1 unauthorized, false, forged, altered, or counterfeit revenue stamp or marking described
2 in subparagraph (A) of this paragraph; or

3 (C) Any article or property to which any unauthorized, false, forged, altered, or
4 counterfeit revenue stamp or marking prima facie evidencing the payment of any tax
5 imposed by the revenue laws of this state is attached or affixed.

6 (6) 'Department' means the Department of Revenue.

7 (7) 'Deputy commissioner' means the deputy revenue commissioner.

8 (8) 'Domestic,' when applied to any corporation or association (including, but not limited
9 to, a partnership), means created, organized, or domiciled in this state.

10 (9) 'Fiduciary' means a guardian, trustee, executor, administrator, receiver, conservator,
11 or any person, whether individual or corporate, acting in any fiduciary capacity for any
12 person.

13 (10) Reserved.

14 (11) 'Foreign,' when applied to any corporation or association (including, but not limited
15 to, a partnership), means created or organized outside this state.

16 (12) 'Individual' means a natural person.

17 (13) 'Intangible personal property' means the capital stock of all corporations; money,
18 notes, bonds, accounts, or other credits, secured or unsecured; patent rights, copyrights,
19 franchises, and any other classes and kinds of property defined by law as intangible
20 personal property.

21 (14) 'Internal Revenue Code' or 'Internal Revenue Code of 1986' means for taxable years
22 beginning on or after January 1, 2007, the provisions of the United States Internal
23 Revenue Code of 1986, as amended, provided for in federal law enacted on or before
24 January 1, 2007, except Section 168(k), (but not excepting Section 168(k)(2)(A)(i),
25 Section 168(k)(2)(D)(i), and Section 168(k)(2)(E)), Section 199, Section 1400L, Section
26 1400N(d)(1), Section 1400N(j), and Section 1400N(k) of the Internal Revenue Code of
27 1986, as amended, shall be treated as if they were not in effect. In the event a reference
28 is made in this title to the Internal Revenue Code or the Internal Revenue Code of 1954
29 as it existed on a specific date prior to January 1, 2007, the term means the provisions of
30 the Internal Revenue Code or the Internal Revenue Code of 1954 as it existed on the prior
31 date. Unless otherwise provided in this title, any term used in this title shall have the same
32 meaning as when used in a comparable provision or context in the Internal Revenue Code
33 of 1986, as amended. For taxable years beginning on or after January 1, 2007, provisions
34 of the Internal Revenue Code of 1986, as amended, which were as of January 1, 2007,
35 enacted into law but not yet effective shall become effective for purposes of Georgia
36 taxation on the same dates upon which they become effective for federal tax purposes.

(14.1) 'Internal Revenue Code' or 'Internal Revenue Code of 1986' means for taxable years beginning after December 31, 2005, but before January 1, 2007, the provisions of the United States Internal Revenue Code of 1986, as amended, provided for in federal law enacted on or before January 1, 2006, except that Section 168(k) (but not excepting Section 168(k)(2)(A)(i), Section 168(k)(2)(D)(i), and Section 168(k)(2)(E)), Section 199, Section 1400L, Section 1400N(d)(1), Section 1400N(j), and Section 1400N(k) of the Internal Revenue Code of 1986, as amended, shall be treated as if they were not in effect, and except that the following provisions shall be as amended by the federal Tax Relief and Health Care Act of 2006 (Pub. L. No. 109-432) as such federal act existed on December 20, 2006, and effective for purposes of Georgia taxation on the same dates upon which they became effective for federal tax purposes pursuant to said federal act: Sections 38, 41, 45A, 45N, 51, 51A, 61, 62, 106, 121, 143, 164, 168 (except 168(k) but not excepting 168(k)(2)(A)(i), 168 (k)(2)(D)(i), and 168(k)(2)(E)), 170, 179E, 198, 220, 222, 223, 263, 280C, 312, 355, 613A, 954, 1043, 1221, 1245, 1355, 1397E, 1400A, 1400B, 7623, and 7872. For such taxable years, provisions of the Internal Revenue Code of 1986, as amended, which were as of January 1, 2006, enacted into law but not yet effective shall be effective for purposes of Georgia taxation on the same dates upon which they become effective for federal tax purposes. The provisions of this paragraph shall supersede and control over any provision of paragraph (14) of this Code section to the contrary.

(15) 'Internal Revenue Service' or 'IRS' means the Internal Revenue Service of the United States Department of the Treasury.

(16) 'Member of the armed forces' means commissioned officers and personnel below the grade of commissioned officers in all regular and reserve components of the uniformed services subject to the jurisdiction of the United States Department of Defense. The term also includes the Coast Guard, but it does not include civilian employees of the armed forces.

(17) 'Municipality' means an incorporated municipality in this state.

(18) 'Person' means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision, whether public, private, or quasi-public.

(19) 'Personal property' means all tangible personal property and all intangible personal property, as the terms are defined in this Code section.

(20) 'Personal representative' means the duly qualified and acting personal representative of the estate of a decedent or, if there is no duly qualified and acting representative, the person in possession of any property of the decedent.

(21) 'Public utility' means all railroad companies, street and suburban railroads, or sleeping car companies; persons or companies operating railroads, street railroads, suburban railroads, or sleeping cars in this state; all express companies including railroad companies doing express, telephone, or telegraph business (except small telephone companies or persons operating a telephone business, the value of whose capital stock or property is less than \$5,000.00); all gas, electric light, electric power, hydroelectric power, steam heat, refrigerated air, dockage or cranage, canal, toll road, toll bridge, railroad equipment, and navigation companies; and any person or persons operating a gas, electric light, electric power, hydroelectric power, steam heat, refrigerated air, dockage or cranage, canal, toll road, toll bridge, railroad equipment, or navigation business, through their president, general manager, owner, or agent having control of the company's offices in this state.

(22) 'Tangible personal property' means personal property which may be seen, weighed, measured, felt, or touched or which is in any other manner perceptible to the senses. The term 'tangible personal property' shall not include intangible personal property. This paragraph shall not apply to Chapter 8 of this title relating to sales and use taxation.

(23) 'Tax collector' means a county tax collector.

(24) 'Tax commissioner' means a county tax commissioner.

(25) 'Taxpayer' means any person required by law to file a return or to pay taxes.

(26) 'Tax receiver' means a county tax receiver."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.